

1 Oliver P. Cleary [SB#168440]
2 LAW OFFICES OF OLIVER P. CLEARY
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4 Attorney for defendant,
5 CHRISTYAN DUARTE MORENO

6 **UNITED STATES DISTRICT COURT**
7 **SOUTHERN DISTRICT OF CALIFORNIA**
8 **(HONORABLE ANTHONY J. BATTAGLIA)**

9 UNITED STATES OF AMERICA,

10 Plaintiff,

11 vs.

12 CHRISTYAN DUARTE MORENO,

13 Defendant.

Case No.: 08CR2684

NOTICE OF MOTIONS AND MOTIONS:

(1) TO MODIFY DEFENDANT'S
CONDITIONS OF RELEASE.

Date: August 26, 2008 at 1:30 p.m.

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16 TO: KAREN P. HEWITT, UNITED STATES ATTORNEY AND THE ASSIGNED
17 ASSISTANT UNITED STATES ATTORNEY: PLEASE TAKE NOTICE that on August 26,
18 2008 at 1:30 p.m., or as soon thereafter as counsel may be heard, Defendant, CHRISTYAN
19 DUARTE MORENO, by and through counsel, Oliver Cleary, will ask this Court to enter an
20 order granting the following motions.
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MOTIONS

Defendant, CHRISTYAN DUARTE MORENO, by and through counsel, Oliver Cleary, pursuant to the United States Constitution, the Federal Rules of Criminal Procedure, and all other applicable statutes, case law and local rules, hereby moves this Court for an Order:

1. To modify CHRISTYAN DUARTE MORENO's conditions of release.

These motions are based upon the instant motions and notice of motions, the attached statement of facts and memorandum of points and authorities, and all other materials that may come to this Court's attention at the time of the hearing on these motions.

Dated:

s/Oliver Cleary

Attorney for Defendant,

CHRISTYAN DUARTE MORENO

Email:opcleary@pacbell.net

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6 **UNITED STATES DISTRICT COURT**
7 **SOUTHERN DISTRICT OF CALIFORNIA**
(HONORABLE ANTHONY J. BATTAGLIA)

8 UNITED STATES OF AMERICA,

9 Plaintiff,

10 vs.

11 CHRISTYAN DUARTE MORENO,

12 Defendant.

Case No.: 08CR2684

MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
DEFENDANT'S MOTION TO MODIFY
CONDITIONS OF RELEASE

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15 **STATEMENT OF FACTS**

16 In 08CR1192BEN, Mr. CHRISTYAN DUARTE MORENO is charged in a two-count
17 Indictment filed August 12, 2008.

18 Counts 1 alleges that on or about July 13, 2008, ALBERTO RODRIGUEZ-GASCA and
19 CHRISTYAN DUARTE MORENO did knowingly and intentionally import marijuana into the
20 United States from a place outside in violation of Title 21, USC, §952 and 960, and
21 Title 18, USC, §2.

22 Counts 2 alleges that on or about July 13, 2008, ALBERTO RODRIGUEZ-GASCA and
23 CHRISTYAN DUARTE MORENO did knowingly and intentionally possess, with the intent to
24 distribute marijuana in violation of Title 21, USC, §841 (a) (1), and Title 18, USC, §2.

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26 **MEMORANDUM OF POINTS AND AUTHORITIES**

27 Defendant CHRISTYAN DUARTE MORENO moves this court to modify his conditions
28 of pretrial release. Currently CHRISTYAN DUARTE MORENO is restricted to travel in the

1 Southern District of California without permission to enter Mexico. CHRISTYAN DUARTE
2 MORENO would like to request this stipulation be modified contingent upon defendant's one-
3 year-and-one-month old daughter's residence in Mexicali with defendant's wife. Defendant's
4 daughter, Valeria Moreno-Acosta, and wife, Carolina Acosta, are not United States citizens,
5 therefore not permitted into the United States to visit CHRISTYAN DUARTE MORENO.
6 Surety, Hilda Parra, has agreed to this modification.

7
8 **CONCLUSION**

9 For the reasons stated above, Defendant respectfully requests that this Court grant the
10 foregoing motions.

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12 Dated: August 18, 2008

s/Oliver Cleary

Attorney for Defendant

Opcleary@pacbell.net

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6 **UNITED STATES DISTRICT COURT**
7 **SOUTHERN DISTRICT OF CALIFORNIA**
(HONORABLE ANTHONY J. BATTAGLIA)

8 UNITED STATES OF AMERICA,

Case No.: 08CR2684

9 Plaintiff,

CERTIFICATE OF SERVICE

10 vs.

11 CHRISTYAN DUARTE MORENO,

12 Defendant.

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14 IT IS HEREBY CERTIFIED THAT:

15 I, Oliver Cleary, am a citizen of the United States and am at least eighteen years of age.
16 My business address is 105 West F Street, Suite 411, San Diego, California 92101.

17 I have caused service of NOTICE OF MOTION AND MOTIONS: (1) TO COMPEL
18 DISCOVERY; (2) PRESERVE EVIDENCE; AND (3) FOR LEAVE TO FILE FURTHER
19 MOTIONS & MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF
20 DEFENDANT'S MOTIONS.

21 The following recipients are currently on the list to receive e-mail notices for this case
22 and have thus been served electronically at the following email addresses:

23 U S Attorney at Efile.dkt.gc2@usdoj.gov

24 I declare under penalty of perjury that the foregoing is true and correct.

25 Executed on: August 18, 2008

S/Oliver Cleary

Attorney for Defendant

Email at opcleary@pacbell.net